

2003 DRAFTING REQUEST

Bill

Received: **01/17/2003**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Alan Lasee (608) 266-3512**

By/Representing: **Shari Lord**

This file may be shown to any legislator: **NO**

Drafter: **mshovers**

May Contact:

Addl. Drafters:

Subject: **Munis - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Lasee@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Require approval of town electors before city or village annexation may take effect.

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			S&L
/1	mshovers 01/24/2003	chanaman 01/28/2003	rschluet 01/29/2003	_____	lemery 01/29/2003	lemery 01/31/2003	

FE Sent For: *At in m.*

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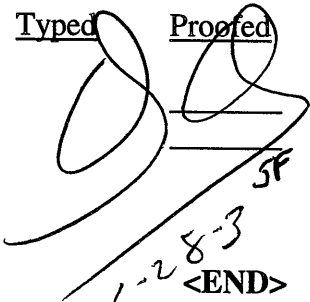
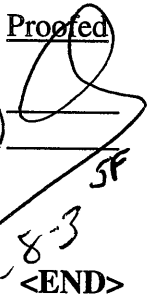
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1?	mshovers	cont 1/28					
TIMES 1/24/03							
FE Sent For:							
1-28-3 <END>							

Bill Request Form

Legislative Reference Bureau
100 N. Hamilton Street
Legal Section 266-3561

You may use this form or talk directly with the LRB attorney who will draft the bill.

Date 1-9-03

Legislator, agency, or other person requesting this draft Senator Rasee

Person submitting request (name and phone number) Shari Lord

Persons to contact for questions about this draft (names and phone numbers) Shari Lord 266-3512 219 South

Describe the problem, including any helpful examples. How do you want to solve the problem?

see attached

Please attach a copy of any correspondence or other material that may help us. If you know of any statute sections that might be affected, list them or provide a marked-up copy.

You may attach a marked-up copy of any LRB draft or provide its number (e.g., 2001 LRB-2345/1 or 1999AB-67).

Requests are confidential unless stated otherwise. May we tell others that we are working on this for you? YES NO

If yes: Anyone who asks? YES NO
Any legislator? YES NO

Only the following persons _____

Do you consider this request urgent? YES NO If yes, please indicate why _____

Should we give this request priority over any pending request of this legislator, agency, or person? YES NO

Senator Lasee wants legislation that before any annexation by a city or village of town land is effective it must be approved by a majority vote of the town electors held at a referendum vote within 60 days of the city or village annexation ordinance.



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1587/1
MES...
FNF
cmb

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

SOON
IN 1/24/03

gen

1 AN ACT ...; relating to: requiring a referendum in a town before annexation of
2 town territory may take effect.

are

Analysis by the Legislative Reference Bureau

Currently, town territory that is contiguous to any city or village may be annexed to that city or village under several methods. Three of the methods of annexation include the following: 1) direct annexation, under which a petition for annexation that was signed by the required number of electors and landowners is filed with the city or village clerk; 2) annexation by referendum, under which a petition for referendum that was signed by the required number of electors and landowners is filed with the city or village clerk, and a referendum of the electors residing in the area proposed for annexation is held and passes; and 3) annexation by court order and referendum, under which the governing body of a city or village adopts a resolution declaring its intention to apply to the circuit court for an order for an annexation referendum. If the city or village submits the resolution and the proper supporting documents and if no petition of protest is filed with the court or if the petition is found by the court to be insufficient, the court shall order the referendum to be held in the territory proposed for annexation. If the referendum passes in the town territory proposed for annexation, the annexation occurs.

Another method of annexation is direct annexation by unanimous approval. If a petition for direct annexation by unanimous approval signed by all of the electors residing in the territory and the owners of all of the real property in the territory is filed with the city or village clerk and the town clerk of all of the involved towns, along with a scale map and legal description of the property to be annexed, the governing

body of the city or village may, generally, annex the property by a two-thirds vote of the body. Such an annexation, however, is subject to DOA review as if the annexation petition were for direct, but not unanimous, annexation or annexation by referendum.

Under this bill, no annexation ordinance or annexation may take effect unless it is approved in a referendum of all of the town electors in the town from which the town territory is proposed to be annexed.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 66.0217 (2) of the statutes is amended to read:

2 **66.0217 (2) DIRECT ANNEXATION BY UNANIMOUS APPROVAL.** If a petition for direct
3 annexation signed by all of the electors residing in the territory and the owners of
4 all of the real property in the territory is filed with the city or village clerk, and with
5 the town clerk of the town or towns in which the territory is located, together with
6 a scale map and a legal description of the property to be annexed, an annexation
7 ordinance for the annexation of the territory may be enacted by a two-thirds vote of
8 the elected members of the governing body of the city or village without compliance
9 with the notice requirements of sub. (4), except that the ordinance may not take effect
10 unless it is approved in referendum as described in sub. (7) (a) 3. In an annexation
11 under this subsection, subject to sub. (6), the person filing the petition with the city
12 or village clerk and the town clerk shall, within 5 days of the filing, mail a copy of the
13 scale map and a legal description of the territory to be annexed to the department
14 and the governing body shall review the advice of the department, if any, before
15 enacting the annexation ordinance.

History: 1973 c. 37, 90, 143, 333; 1977 c. 29 ss. 698, 1654 (8) (c); 1977 c. 187 s. 134; 1977 c. 315, 447; 1979 c. 323; 1979 c. 361 s. 112; 1983 a. 29, 189, 219; 1985 a. 225; 1987 a. 391; 1989 a. 192; 1991 a. 5, 39, 269, 316; 1993 a. 16, 247, 301, 329, 491; 1995 a. 27 ss. 3308 to 3312, 9116 (5), 9145 (1); 1995 a. 201, 225; 1997 a. 27; 1999 a. 96; 1999 a. 150 ss. 44 to 47, 49 to 60, 63 to 65; Stats. 1999 s. 66.0217; 1999 a. 182 s. 197; 2001 a. 16, 30.

16 **SECTION 2.** 66.0217 (7) (a) 1. of the statutes is amended to read:

1 66.0217 (7) (a) 1. Within 60 days after the filing of the petition under sub. (3),
2 the common council or village board may accept or reject the petition and if rejected
3 no further action may be taken on the petition. Acceptance may consist of adoption
4 of an annexation ordinance, except that the ordinance may not take effect unless it
5 is approved in a referendum as described in subd. 3. Failure to reject the petition
6 obligates the city or village to pay the cost of any referendum favorable to annexation.

History: 1973 c. 37, 90, 143, 333; 1977 c. 29 ss. 698, 1654 (8) (c); 1977 c. 187 s. 134; 1977 c. 315, 447; 1979 c. 323; 1979 c. 361 s. 112; 1983 a. 29, 189, 219; 1985 a. 225; 1987 a. 391; 1989 a. 192; 1991 a. 5, 39, 269, 316; 1993 a. 16, 247, 301, 329, 491; 1995 a. 27 ss. 3308 to 3312, 9116 (5), 9145 (1); 1995 a. 201, 225; 1997 a. 27; 1999 a. 96; 1999 a. 150 ss. 44 to 47, 49 to 60, 63 to 65; Stats. 1999 s. 66.0217; 1999 a. 182 s. 197; 2001 a. 16, 30.

7 **SECTION 3.** 66.0217 (7) (a) 2. of the statutes is amended to read:

8 66.0217 (7) (a) 2. If the petition is not rejected the clerk of the city or village with
9 whom the annexation petition is filed shall give written notice of the petition by
10 personal service or registered mail with return receipt requested to the clerk of any
11 town from which territory is proposed to be detached and shall give like notice to any
12 person who files a written request with the clerk. The notice shall ~~indicate whether~~
13 ~~the petition is for direct annexation or whether it requests~~ state that a referendum
14 on the question of annexation will be held.

History: 1973 c. 37, 90, 143, 333; 1977 c. 29 ss. 698, 1654 (8) (c); 1977 c. 187 s. 134; 1977 c. 315, 447; 1979 c. 323; 1979 c. 361 s. 112; 1983 a. 29, 189, 219; 1985 a. 225; 1987 a. 391; 1989 a. 192; 1991 a. 5, 39, 269, 316; 1993 a. 16, 247, 301, 329, 491; 1995 a. 27 ss. 3308 to 3312, 9116 (5), 9145 (1); 1995 a. 201, 225; 1997 a. 27; 1999 a. 96; 1999 a. 150 ss. 44 to 47, 49 to 60, 63 to 65; Stats. 1999 s. 66.0217; 1999 a. 182 s. 197; 2001 a. 16, 30.

15 **SECTION 4.** 66.0217 (7) (a) 3. of the statutes is amended to read:

16 66.0217 (7) (a) 3. ~~If the notice indicates that the petition is for a referendum~~
17 ~~on the question of annexation, the~~ The clerk of the city or village shall file the notice
18 as provided in s. 8.37. ~~If the notice indicates that the petition is for a referendum on~~
19 ~~the question of annexation, the~~ The town clerk shall give notice as provided in par.
20 (c) of a referendum of the electors residing in the town in which the area proposed
21 for annexation ~~to~~ is located. The referendum shall be held not less than 42 days nor
22 more than 72 days after the date of personal service or mailing of the notice required
23 under this paragraph. ~~If the notice indicates that the petition is for direct~~

1 ~~annexation, no referendum shall be held unless within 30 days after the date of~~
 2 ~~personal service or mailing of the notice required under this paragraph, a petition~~
 3 ~~conforming to the requirements of s. 8.40 requesting a referendum is filed with the~~
 4 ~~town clerk as provided in s. 8.37, signed by at least 20% of the electors residing in the~~
 5 ~~area proposed to be annexed. If a petition requesting a referendum is filed, the clerk~~
 6 ~~shall give notice as provided in par. (c) of a referendum of the electors residing in the~~
 7 ~~area proposed for annexation to be held not less than 42 days nor more than 72 days~~
 8 ~~after the receipt of the petition and shall mail a copy of the notice to the clerk of the~~
 9 ~~city or village to which the annexation is proposed. The referendum, and shall be~~
 10 held at a convenient place within the town to be specified in the notice. *plain space*

History: 1973 c. 37, 90, 143, 333; 1977 c. 29 ss. 698, 1654 (8) (c); 1977 c. 187 s. 134; 1977 c. 315, 447; 1979 c. 323; 1979 c. 361 s. 112; 1983 a. 29, 189, 219; 1985 a. 225; 1987 a. 391; 1989 a. 192; 1991 a. 5, 39, 269, 316; 1993 a. 16, 247, 301, 329, 491; 1995 a. 27 ss. 3308 to 3312, 9116 (5), 9145 (1); 1995 a. 201, 225; 1997 a. 27; 1999 a. 96; 1999 a. 150 ss. 44 to 47, 49 to 60, 63 to 65; Stats. 1999 s. 66.0217; 1999 a. 182 s. 197; 2001 a. 16, 30.

11 **SECTION 5.** 66.0217 (8) (c) of the statutes is amended to read:

12 66.0217 (8) (c) The annexation is effective upon enactment of the annexation
 13 ordinance ~~and approval of t~~^{re} referendum as described in sub. (7) (a) 3. The board of
 14 school directors in a 1st class city is not required to administer the schools in any
 15 territory annexed to the city until July 1 following the annexation.

History: 1973 c. 37, 90, 143, 333; 1977 c. 29 ss. 698, 1654 (8) (c); 1977 c. 187 s. 134; 1977 c. 315, 447; 1979 c. 323; 1979 c. 361 s. 112; 1983 a. 29, 189, 219; 1985 a. 225; 1987 a. 391; 1989 a. 192; 1991 a. 5, 39, 269, 316; 1993 a. 16, 247, 301, 329, 491; 1995 a. 27 ss. 3308 to 3312, 9116 (5), 9145 (1); 1995 a. 201, 225; 1997 a. 27; 1999 a. 96; 1999 a. 150 ss. 44 to 47, 49 to 60, 63 to 65; Stats. 1999 s. 66.0217; 1999 a. 182 s. 197; 2001 a. 16, 30.

16 **SECTION 6.** 66.0219 (4) (a) of the statutes is amended to read:

17 66.0219 (4) (a) If the court, after the hearing, is satisfied that the description
 18 of the territory or any survey is accurate and that the provisions of this section have
 19 been complied with, it shall make an order so declaring and shall direct a referendum
 20 election within the town in which the territory described in the order is located, on
 21 the question of whether the area should be annexed. Such order shall be filed as
 22 provided in s. 8.37. The order shall direct 3 electors named in the order residing in

1 the town in which the territory proposed to be annexed lies, to perform the duties of
2 inspectors of election.

3 History: 1979 c. 89; 1987 a. 391; 1991 a. 269; 1993 a. 301, 329; 1995 a. 201; 1999 a. 150 s. 68; Stats. 1999 s. 66.0219; 1999 a. 182 s. 200; 2001 a. 30.

4 **SECTION 7.** 66.0219 (4) (b) of the statutes is amended to read:

5 66.0219 (4) (b) The referendum election shall be held not less than 42 days nor
6 more than 72 days after the filing of the order as provided in s. 8.37, in the town in
7 which the territory proposed for annexation is located, by the electors of that
8 territory town as provided in s. 66.0217 (7), so far as applicable. The ballots shall
9 contain the words “For Annexation” and “Against Annexation”. The certification of
10 the election inspectors shall be filed with the clerk of the court, and the clerk of any
11 municipality involved, but need not be filed or recorded with the register of deeds.

12 History: 1979 c. 89; 1987 a. 391; 1991 a. 269; 1993 a. 301, 329; 1995 a. 201; 1999 a. 150 s. 68; Stats. 1999 s. 66.0219; 1999 a. 182 s. 200; 2001 a. 30.

13 **SECTION 8.** 66.0221 (1) of the statutes is amended to read:

14 66.0221 (1) Upon its own motion, a city or village, by a two-thirds vote of the
15 entire membership of its governing body, may enact an ordinance annexing territory
16 which comprises a portion of a town or towns and which was completely surrounded
17 by territory of the city or village on December 2, 1973. The ordinance shall include
18 all surrounded town areas except those that are exempt by mutual agreement of all
19 of the governing bodies involved. The annexation ordinance shall contain a legal
20 description of the territory and the name of the town or towns from which the
21 territory is detached. The ordinance may not take effect until it is approved in a
22 referendum of town electors ^{residing in the town in which} ~~of~~ the town territory ~~to be annexed~~ ^{is located} as described in the
23 annexation ordinance, as provided in s. 66.0217 (7), so far as applicable. Upon
24 enactment of the ordinance, the city or village clerk shall send a notice of the
enactment and copy of the ordinance to the town clerk of the town from which the
territory to be annexed is located. The referendum election shall be held not less than

1 42 days nor more than 72 days after the annexation ordinance is enacted under this
2 subsection. Upon enactment of the ordinance and the ordinance taking effect, the
3 city or village clerk immediately shall file 6 certified copies of the ordinance in the
4 office of the secretary of state, together with 6 copies of a scale map. The secretary
5 of state shall forward 2 copies of the ordinance and scale map to the department of
6 transportation, one copy to the department of natural resources, one copy to the
7 department of revenue and one copy to the department of administration. This
8 subsection does not apply if the town island was created only by the annexation of
9 a railroad right-of-way or drainage ditch. This subsection does not apply to land
10 owned by a town government which has existing town government buildings located
11 on the land. No town island may be annexed under this subsection if the island
12 consists of over 65 acres or contains over 100 residents. Section 66.0217 (11) applies
13 to annexations under this subsection. Except as provided in sub. (2), after
14 December 2, 1973, no city or village may, by annexation, create a town area which
15 is completely surrounded by the city or village.

History: 1999 a. 150 s. 62; 2001 a. 16.

16 **SECTION 9. Initial applicability.**

17 (1) This act first applies to ^{an} annexation ordinance^s that ^{is} ~~are~~ enacted on the
18 effective date of this subsection.

19 (END)

D-note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1587/?dn
MES/.../.....
ent

date

Senator Lasee:

The instructions from the Towns Association stated that the bill should require that, before any city or village annexation of town land could take effect, the annexation had to be approved in a referendum of all town electors and that the referendum must occur within 60 days of enactment of the city or village annexation ordinance. Under current law, however, many annexations may not occur unless they are approved in a referendum of the electors residing in the territory to be annexed. It seemed to me that it would be somewhat duplicative, and expensive, to hold ^{two} referenda so close together. Also, the 60-day requirement didn't seem to fit into the current statutory scheme of holding referenda, which seem to be held not less than 42 days nor more than 72 days after a certain triggering device. See, for example, § 66.0217 (7) (a) 3. and § 66.0219 (4) (b). Consequently, I drafted the bill so that no annexation of town territory may take effect unless it is approved in a referendum of all town electors of the town from which the territory is proposed to be annexed. This method seems to meet the Towns Association's goals as well as being more simple by not requiring ^{two} referenda. Is this consistent with your intent?

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1587/1dn
MES:cmh:rs

January 28, 2003

Senator Lasee:

The instructions from the Towns Association stated that the bill should require that, before any city or village annexation of town land could take effect, the annexation had to be approved in a referendum of all town electors and that the referendum must occur within 60 days of enactment of the city or village annexation ordinance. Under current law, however, many annexations may not occur unless they are approved in a referendum of the electors residing in the territory to be annexed. It seemed to me that it would be somewhat duplicative, and expensive, to hold two referenda so close together. Also, the 60-day requirement didn't seem to fit into the current statutory scheme of holding referenda, which seem to be held not less than 42 days nor more than 72 days after a certain triggering device. See, for example, ss. 66.0217 (7) (a) 3. and 66.0219 (4) (b). Consequently, I drafted the bill so that no annexation of town territory may take effect unless it is approved in a referendum of all town electors of the town from which the territory is proposed to be annexed. This method seems to meet the Towns Association's goals as well as being more simple by not requiring two referenda. Is this consistent with your intent?

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.state.wi.us

Emery, Lynn

From: Lord, Shari
Sent: Friday, January 31, 2003 9:04 AM
To: LRB.Legal
Subject: Draft review: LRB-1587/1 Topic: Require approval of town electors before city or village annexation may take effect.

It has been requested by <Lord, Shari> that the following draft be jacketed for the SENATE:

Draft review: LRB-1587/1 Topic: Require approval of town electors before city or village annexation may take effect.

CCC

1587/1

SB-89

#. Page 2, line 10: before

"referendum" insert "a".

KMG:

mes



State of Wisconsin
2003-2004 LEGISLATURE

CORRECTIONS IN:

2003 SENATE BILL 89

Prepared by the Legislative Reference Bureau
(April 2, 2003)

1. Page 2, line 10: before "referendum" insert "a".